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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

3M COMPANY,

Plaintiff,

vs.

RX2LIVE, LLC and RX2LIVE, INC.,

Defendants.

Case No. 1:20-cv-00523-NONE-SAB

**[PROPOSED] ORDER GRANTING
TEMPORARY RESTRAINING ORDER
AND TO SHOW CAUSE FOR
PRELIMINARY INJUNCTION
AGAINST RX2LIVE, LLC AND
RX2LIVE, INC.**

Action Filed: April 10, 2020
Amended Complaint Filed: April 19, 2020
Jury Trial Demanded

1 **WHEREAS**, the Court, having considered Plaintiff 3M Company’s (“3M”) Motion for a
2 Temporary Restraining Order and Preliminary Injunction and Memorandum of Points and
3 Authorities in support thereof (the “Motion”) against Defendants RX2Live, LLC and RX2Live,
4 Inc. (“Defendants”), together with the supporting Declarations of Dale Giali, Carmine R. Zarlenga,
5 Charles Stobbie, and David A. Crist (collectively, the “Declarations”), as well as the record and
6 proceedings to date in the above-captioned action,

7 **IT IS HEREBY ORDERED** that 3M’s Motion is **GRANTED** in its entirety.

8 It is hereby further **ORDERED** that:

9 1. Defendants appear before The Honorable Dale A. Drozd, District Judge, United
10 States District Court for the Eastern District of California, on April _____, 2020, at _____ am/pm,
11 via telephone conference pursuant to General Order No. 612 issued on March 16, 2020, and show
12 cause (the “Show Cause Hearing”) as to why the Court should not enter an Order, pursuant to Fed.
13 R. Civ. P. 65(a), that:

14 a. Preliminarily enjoins Defendants, their agents, servants, employees, officers and all
15 persons and entities in active concert and participation with them from using the “3M” trademarks
16 (the “3M Marks”) and any other word, name, symbol, device, or combination thereof that is
17 confusingly similar to the 3M Marks, for, on, and/or in connection with the manufacture,
18 distribution, advertising, promoting, offering for sale, and/or sale of any goods or services,
19 including, without limitation, Plaintiff’s 3M-brand N95 respirators, during the pendency of this
20 action, and

21 b. Preliminarily enjoins Defendants, their agents, servants, employees, officers and all
22 persons and entities in active concert and participation with them from engaging in any false,
23 misleading, and/or deceptive conduct in connection with 3M and its products, including, without
24 limitation, representing themselves as being authorized distributors, vendors, agents,
25 representatives, retailers, and/or licensees of 3M and/or any of 3M’s products (including, without
26 limitation, 3M-brand N95 respirators); falsely representing to have an association or affiliation
27 with, sponsorship by, and/or connection with, 3M and/or any of 3M’s products; falsely representing
28 that 3M has increased the price(s) of its 3M-brand N95 respirators; and offering to sell any of 3M’s

1 products at a price and/or in a manner that would constitute a violation California Penal Code § 396
2 and/or California Business and Professions Code §§ 17200 *et seq.*, during the pendency of this
3 action.

4 2. Sufficient reason having been shown therefor, from the date of this Order, through
5 and including the date of the Show Cause Hearing, Defendants, their agents, servants, employees,
6 officers and all persons and entities in active concert and participation with them, are hereby
7 temporarily restrained, pursuant to Fed. R. Civ. P. 65(b), from engaging in any of the acts and/or
8 conduct described in Paragraphs 1(a) and 1(b) of this Order.

9 3. Pursuant to this Court's equitable powers and discretion, 3M need not post a bond.

10 4. 3M and/or its authorized representative(s) must serve a copy of this Order, together
11 with the Motion and Declarations in support thereof, on Defendants' CEO Brian Hazelgren at 3126
12 East Gary Street Mesa, AZ 85213, no later than ____ days before the date set for Show Cause
13 Hearing, and proof of service shall be filed no later than ____ days before the Hearing. The
14 foregoing shall constitute proper service and notice of this Order.

15 5. Any response or opposition to this Order must be filed and personally served on
16 Plaintiff's counsel no later than ____ days before the Show Cause Hearing, and proof of service
17 shall be filed no later than ____ days before the Hearing.

18 6. On two days' notice to the party who obtained the Order without notice—or on
19 shorter notice set by the Court—the adverse party may appear and move to dissolve or modify the
20 Order.

21 This Court shall retain jurisdiction to hear and determine all matters arising out of, relating
22 to, and/or otherwise concerning the interpretation and/or enforcement of this Order.

23 **SO ORDERED** this ____ day of April, 2020.

24
25
26 _____
27 The Honorable Dale A. Drozd
28 United States District Judge